

CITY OF SPOKANE ETHICS COMMISSION

Ethics Commission's Findings, Conclusions and Decision Regarding Complaint filed by Jamie Pendleton Against David Condon

FINDINGS

The Ethics Commission makes the following findings:

1. On or about November 30, 2015, Jamie Pendleton filed an ethics complaint against David Condon.
2. The complaint alleges that Mr. Condon violated SMC 1.04A.030 (A) of the Code of Ethics regarding prohibition against conflicts of interest whereby a City officer or employee has an interest that might be seen as adverse to the interest of the City. The complaint alleges that Mr. Condon knowingly withheld allegations of sexual harassment by former Police Chief Frank Straub against another city employee until after Mr. Condon won re-election and that this dishonesty by omission constitutes an action adverse to the interest of the City by withholding information pertinent to voters.

The complaint further alleges that Mr. Condon violated SMC 1.04A.030 (N) of the Code of Ethics regarding prohibition against commissions of acts of moral turpitude or dishonesty. The complaint alleges that Mr. Condon's denial of any complaint of sexual harassment being made was blatant dishonesty relevant to the Spokane voters in an election.

3. On December 29, 2015, Mr. Condon, through his attorney, submitted Motion for Dismissal of the ethics complaint pursuant to SMC 1.04A.110 (D) (1) (b) on the basis that the Ethics Commission lacks jurisdiction. The Motion asserts that the alleged conduct does not constitute a violation of SMC 1.04A.030 (N) and should be dismissed pursuant to SMC 1.04A.110 (D) (1) (b).
4. On January 13, 2016, the Ethics Commission held a meeting to review the complaint to determine whether, pursuant to SMC 1.04A.110 (D) (1) and (2), the Commission had jurisdiction to conduct further proceedings and whether the complaint, on its face, alleges facts that, if true, would substantiate a violation.
5. At the January 13, 2016 Commission meeting, the Commission considered the November 30, 2015 complaint filed by Mr. Pendleton, the December 29, 2015 Motion to Dismiss filed by Mr. Condon's attorney, the

testimony submitted by the parties at the hearing and the deliberation of the Commission members.

CONCLUSION

The Ethics Commission makes the following conclusions:

The complaint met the requirements of SMC 1.04A.110 regarding the signed written complaint form, cites to a provision of the Code of Ethics and asserts an alleged violation against a City official who is subject to the Code of Ethics. The complaint, however, asserts facts, that even if true, potentially would not constitute a violation of the Code of Ethics or would be a de minimus violation.

DECISION

Based upon the Findings and Conclusions set forth above and the deliberation of the Ethics Commission, the Ethics Commission concludes that the complaint by Mr. Pendleton is dismissed pursuant to SMC 1.04A.110 (D) (1)(c) on the basis that the alleged violation is a minor or de minimis violation.

This decision was approved by a vote of four to one of the Ethics Commission members present for and participating in the hearing with Commissioner Cronin voting no on the basis that the Commission needed a definition of the terms "moral turpitude" and "dishonesty," as set forth in SMC 1.04A.110 (N), in order to determine jurisdiction. Commissioner Cronin's motion to stay the proceedings pending a clarification of these terms or, in the alternative, to dismiss the complaints without prejudice failed for a lack of a second.

 1-27-16
Troy Bruner - Chairperson Date